

## **NOTICE OF PROPOSED REGULATIONS**

### **California Code of Regulations Title 15, Crime Prevention and Corrections Department of Corrections and Rehabilitation**

**NOTICE IS HEREBY GIVEN** that the Secretary of the California Department of Corrections and Rehabilitation (CDCR), pursuant to the authority granted by Government Code Section 12838.5 and Penal Code (PC) Section 5055, and the rulemaking authority granted by PC Section 5058 and 5058.3, in order to implement, interpret and make specific PC Section 3450 et seq., proposes to amend Sections 3000, 3075.2, 3075.3, and adopt Sections 3079 and 3079.1 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the Postrelease Community Supervision program.

#### **PUBLIC HEARING:**

Date and Time: September 10, 2012 - 10:00 a.m. to 11:00 a.m.

Place: Department of Corrections and Rehabilitation  
Kern Room  
1515 S Street – North Building  
Sacramento, CA 95811

Purpose: To receive comments about this action.

#### **PUBLIC COMMENT PERIOD:**

The public comment period will close September 10, 2012 at 5:00 p.m. Any person may submit public comments in writing (by mail, by fax, or by e-mail) regarding the proposed changes. To be considered by the Department, comments must be submitted to the CDCR, Regulation and Policy Management Branch, P.O. Box 942883, Sacramento, CA 94283-0001; by fax at (916) 324-6075; or by e-mail at [RPMB@cdcr.ca.gov](mailto:RPMB@cdcr.ca.gov) before the close of the comment period.

#### **CONTACT PERSON:**

Please direct any inquiries regarding this action to:

**Timothy M. Lockwood, Chief  
Regulation and Policy Management Branch  
Department of Corrections and Rehabilitation  
P.O. Box 942883, Sacramento, CA 94283-0001  
Telephone (916) 445-2269**

In the event the contact person is unavailable, inquiries should be directed to the following back-up person:

**S. Pollock  
Regulation and Policy Management Branch  
Telephone (916) 445-2266**

Questions regarding the substance of the proposed regulatory action should be directed to:

**M. Gonzalez  
Classification Services Unit  
(916) 322-1164**

#### **LOCAL MANDATES:**

The 2011 Realignment Legislation Addressing Public Safety (Chapter 15, Statutes 2011) does impose mandates on local agencies or school districts, or a mandate which requires reimbursement pursuant to Part 7 (Section 17561) of Division 4 of the Government Code. Funding has been provided to local agencies commensurate with the new responsibilities under realignment. For further explanation, see Economic and Fiscal Impact Statement, Std. 399.

### **FISCAL IMPACT STATEMENT:**

- **Cost to any local agency or school district that is required to be reimbursed:** \$367 million in 2011-12, and is estimated to be \$856 million in 2012-13, \$1 billion in 2013-14, and \$950 million in 2014-15.
- **Cost or savings to any state agency:** The California Department of Corrections and Rehabilitation budget was reduced by \$450 million in 2011-12, \$1 billion in 2013-14, and \$1.5 billion in 2014-15 and ongoing.
- **Other nondiscretionary cost or savings imposed on local agencies:** *none*
- **Cost or savings in federal funding to the state:** *none*

### **EFFECT ON HOUSING COSTS:**

The Department has made an initial determination that the proposed action will have no significant effect on housing costs.

### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT AFFECTING BUSINESSES:**

The Department has initially determined that the proposed regulations will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

### **RESULTS OF ECONOMIC IMPACT ASSESSMENT:**

The Department has determined that the proposed regulations will have no impact on the creation of new, or the elimination of existing jobs or businesses within California, or affect the expansion of businesses currently doing business in California, or the health and welfare of California residents, worker safety, or the state's environment.

### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:**

The Department is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

### **EFFECT ON SMALL BUSINESSES:**

The Department has determined that the proposed regulations may not affect small businesses. It is determined that this action has no significant adverse economic impact on small business because they are not affected by the proposed regulations.

### **CONSIDERATION OF ALTERNATIVES:**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the proposed regulatory action. Interested persons are accordingly invited to present statements or arguments with respect to any alternatives to the changes proposed at the scheduled hearing or during the written comment period.

### **AVAILABILITY OF PROPOSED TEXT AND INITIAL STATEMENT OF REASONS:**

The Department has prepared, and will make available, the text and the Initial Statement of Reasons (ISOR) of the proposed regulations. The rulemaking file for this regulatory action, which contains those items and all information on which the proposal is based (i.e., rulemaking file) is available to the public upon request directed to the Department's contact person. The proposed text, ISOR, and Notice of Proposed Action will also be made available on the Department's website <http://www.cdcr.ca.gov>.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS:**

Following its preparation, a copy of the Final Statement of Reasons may be obtained from the Department's contact person.

### **AVAILABILITY OF CHANGES TO PROPOSED TEXT:**

After considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this Notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Department adopts the regulations as revised. Requests for copies of any modified regulation text should be directed to the contact person indicated in this Notice. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

## **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW:**

Penal Code (PC) Section 5000 provides that commencing July 1, 2005, any reference to the Department of Corrections in this or any code, refers to the CDCR, Division of Adult Operations.

PC Section 5050 provides that commencing July 1, 2005, any reference to the Director of Corrections, in this or any other code, refers to the Secretary of the CDCR. As of that date, the office of the Director of Corrections is abolished.

PC Section 5054 provides that commencing July 1, 2005, the supervision, management, and control of the state prisons, and the responsibility for the care, custody, treatment, training, discipline, and employment of persons confined therein are vested in the Secretary of the CDCR.

PC Section 5058 authorizes the Director to prescribe and amend regulations for the administration of prisons.

The health and welfare of California residents will be benefited by the proposed regulations by a reduction in prison overcrowding. The proposed regulations will also reduce recidivism among criminal offenders by reinvesting criminal justice resources to support community corrections programs and evidence based practices that will achieve public safety. In addition to the reduction in prison overcrowding and reducing recidivism, the proposed regulation will benefit the State by a reduction in the State budget.

The proposed regulations will not affect worker safety or the State's environment.

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing state laws and regulations.

This action provides the following:

- Adopts into the California Code of Regulations, Title 15, Division 3, new sections 3079 and 3079.1 governing Postrelease Community Supervision (PRCS).
- Brings the Department into compliance with the provisions of PC Section 3450, which provides for supervision of offenders in the community by county agencies after their release from incarceration in CDCR prisons.
- Adopts into the California Code of Regulations, Title 15, Division 3, the definition of "Postrelease Community Supervision."
- Differentiates release procedures for inmates being released to state-level parole from those that are being released to PRCS and supervised by counties.
- Revises CDCR Form 611 (Rev. 05/12), Release Program Study, for use with the PRCS program. This form is incorporated by reference into the regulations. This action establishes for use on a statewide basis, new CDCR Form 1515-CS (09/11), Notice and Conditions of Postrelease Community Supervision, which is incorporated by reference into the regulations. A copy of CDCR Form 611 and CDCR Form 1515-CS have been made available for public review. In addition, CDC Form 1515, (Rev. 05/01), Notice and Conditions of Parole and CDCR Form 1570 (Rev. 1/06), Guidelines for Parole, and are included for reference and made available to the public. These forms shall be given to inmates released to state-level parole, but are not given to inmates released to Postrelease Community Supervision. The CDC Form 115 (07/88), Rules Violation Report, is referenced in these regulations, as this form will be utilized should the inmate refuse to sign the CDCR Form 1515-CS.
- Provides the reporting instructions and notice and conditions of release for inmates released to PRCS.
- Adopts new Article 6.9, which outlines eligibility for PRCS, and clarifies that once released to PRCS offenders are no longer under the jurisdiction of CDCR.
- Defines the exclusionary criteria for PRCS.

## **EVALUATION OF INCONSISTENCY/INCOMPATIBILITY WITH EXISTING REGULATIONS:**

The Department has determined that these proposed regulations are consistent and compatible with existing state laws and regulations.